

Who Really Owns Your Personal Data? Not You.

By U.S. Rep. Maurice D. Hinchey (D-NY)

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Instead of debating whether Pentagon spokesman Kenneth Bacon should lose his job for violating Linda Tripp's rights under the Privacy Act, we should be more concerned that for a few dollars and a visit to the right web site, we could have found out much more about Mrs. Tripp than her employment history.

The Privacy Act protects federal employees and ordinary citizens from the likelihood that the government will misuse the vast stores of information it gathers and maintains. Perhaps more important, the law ensures that this information will only be used for the specific reason it was collected. When there are lapses, as Mr. Bacon is learning, these rights are fully enforceable.

There are no similar protections in the corporate world. In the United States, data is a commodity to be mined, repackaged and sold. This is nothing new, but it has more intrusive consequences in the electronic age. The ease with which data about our health, finances, driving records and personal spending habits can be compiled and transmitted is breathtaking. Dossiers that once took gumshoes months to complete can be put together in a matter of minutes by anyone with average computer skills.

As a result, individuals are left uncovered. Unlike the federal privacy laws, there is nothing to protect us from corporations that are getting rich on the accumulated wealth of personal data. There are no requirements that we get to see what's in our files or to correct any wrong information. This can have very real consequences – from denial of credit or insurance, to losing a job, or receiving inadequate medical treatment. We as individuals have no opportunity or authority to control our own personal information.

As the public's awareness of these consequences grows, the industry's response has been "self regulation." Clearly, this is not working. For the Internet alone, a recent Federal Trade Commission survey found that 80 percent of the most popular commercial web sites do not adhere to even the most basic privacy policies.

The response from Washington – to enact specific protections for each industry or category of information – has been equally ineffective. Both the departments of the Treasury and Health and Human Services have hit roadblocks in their attempts to write financial and medical privacy rules. Even if they could get these very basic protections into law, the exceptions will always be greater than the rules.

Congressman Maurice Hinchey
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Instead of addressing privacy in a piecemeal fashion, we should take a broader view. A framework for privacy protection must be based on individual control. The current law makes the opposite assumption: that private, personal data belongs to the entities that collect it, not to the individuals from whom it's collected.

I want to turn that assumption on its head. I have introduced legislation to require companies to proactively seek and receive permission before they can use any personal information, a procedure known as "opting in." It would guarantee an explicit property right over personal information.

Rapid advances in technology are making the invasion of our privacy easier, cheaper and more dangerous. By mandating a universal "opt in" procedure, we would solve the problems of self-regulation, close the gaps in piecemeal regulation, and equalize the treatment of private- vs. government-collected information. In an increasingly transparent world, we must take broad action to restore control over personal data to individuals.

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